

## **Summary of NEPA Tribal Consultation Process**

Washington Transportation Commission Meeting  
July 17, 2007

### **Reasons for Development:**

- In 2004, the Washington State Legislature directed the Transportation Permit Efficiency and Accountability Committee (TPEAC) to develop a “model NEPA tribal consultation process for federal transportation aid projects related to the preservation of cultural, historic, and environmental resources”.
- Tribes requested WSDOT meet with them individually to discuss approaches to improving consultation.
- WSDOT project teams have repeatedly requested guidance on when and how to consult with tribes.

### **Process for Development:**

- Met with the planning, natural and cultural resources staff at 27 of the 29 federally recognized tribes in Washington to discuss how to improve consultation.
- Developed 12 recommendations for an improved consultation process.
- Recommendations were reviewed and approved by tribes, Federal Highway Administration (FHWA), TPEAC, WSDOT Statewide Environmental Managers (SEM) and other interested WSDOT staff.
- Developed a draft process.
- Limited review of first draft by FHWA, Attorney General’s Office and a WSDOT committee selected by the Statewide Environmental Managers (SEM).
- An overview of the model was presented to the cultural resources track at the Tribal / State Transportation Conference.
- Second draft reviewed by tribes, WSDOT staff, the Governor’s Office of Indian Affairs, Department of Archaeology and Historic Preservation, Office of Regulatory Assistance and other interested parties for a 60 day review period.
- Final review by FHWA and Attorney General’s Office.

### **Next Steps:**

- Develop web page for process.
- Conduct trainings in each region this fall.

## Model Process Contents:

This was designed as a "model" process for a project teams to use on federal aid projects for which FHWA is the lead federal agency.

Chapter 1:	Introduction
Chapter 2:	Goals and principles of consultation and a brief description of major legal and policy foundations for consultation. This chapter focuses on <i>why</i> we consult with tribes.
Chapter 3:	Consultation Activities. This chapter focuses on <i>when</i> to consult with tribes. It includes a list of recommended consultation activities for projects, based on their environmental classification (CE, DCE, EA, EIS). In essence, it outlines the minimum level of consultation opportunities WSDOT project teams should provide for tribes on their projects.
Chapter 4:	Frequently Ask Questions. This chapter focuses on <i>how</i> to consult with tribes. The guidance is grouped into nine themes: <ul style="list-style-type: none"><li>• Initiating consultation</li><li>• Comprehensive consultation</li><li>• Treaty rights</li><li>• Cultural resources</li><li>• Intertribal relations</li><li>• Resolving tribal concerns</li><li>• Tribal compensation</li><li>• Permitting</li><li>• Resources to help you</li></ul>
Appendix A:	NEPA Summary
Appendix B:	U&A Summary from the Attorney General's Office
Appendix C:	Sample consultation letter for EA
Appendix D:	Sample consultation letter for EIS with Participating Agency invitation
Appendix E:	Sample consultation plan
Appendix F:	Tribal consultation agreement examples
Appendix G:	Individual tribal protocols for consultation
Appendix H:	Tribal response card
Appendix I:	Consultation tracking form
Appendix J:	Advisory Council on Historic Properties' (ACHP) letter on consultation
Appendix K:	Sample tribal service agreements